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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,281	11/08/2001	Yasunobu Kidoura	215959US3	5069
22850	7590	11/14/2003	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C., 1940 DUKE STREET ALEXANDRIA, VA 22314			YAN, REN LUO	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,281

Applicant(s)

KIDOURA ET AL.

Examiner

Ren L Yan

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-96 is/are pending in the application.
- 4a) Of the above claim(s) 2-8, 10-48, 50-56 and 58-96 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 9, 49 and 57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other: _____

DETAILED ACTION

Applicant's election with traverse of species "g" with readable claims 9 and 57 in Paper No. 11 is acknowledged. The traversal is on the ground(s) that the election of species requirement fails to (1) state any basis in support of a finding of distinctness, (2) address whether the pending claims recite mutually exclusive characteristics, and (3) the claims of the present invention would appear to be part of an overlapping search area and a search and examination of the entire application would not place a serious burden on the examiner. This is not found persuasive because first of all, MPEP 816, as relied upon by the applicant for argument (1), governs the restriction requirement practice, not election of species requirement practice. In the election of species requirement practice, it is the responsibility of the applicant to select a species as represented by figures and set forth which claims read on the elected species, not the Examiner's. Therefore, the Examiner does not need to state which claims read on what species and does not need to discuss the distinctness among the claims. With respect to argument (2), since applicant only identifies claims 9 and 57 as being readable on the elected species "g", it is evident the pending claims do recite mutually exclusive characteristics and therefore, the election of species requirement was properly made by the Examiner. Regarding argument (3), since the pending claims represent numerous patentably distinct species and applicant does not dispute this finding, the search and examination of the entire application would place a *serious* burden on the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

Since the elected dependent claims 9 and 57 inherit all the limitations of their independent claims 1 and 49, it follows that independent claims 1 and 49 read on the elected species "g" as well. Accordingly, claims 1, 9, 49 and 57 are currently under consideration.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Miki et al(5,551,337). The patent to Miki et al teaches the structure of a stencil printer as claimed including a thermal head 15 as the heating means for perforating a thermosensitive stencil, a stencil distinguishing means 31 for identifying a kind of stencil being loaded onto the printer, and adjusting means (controller 32) for selecting, among master making conditions experimentally determined beforehand, a master making condition matching with the information output from the stencil distinguishing means 31. See column 2, lines 15-30, and column 5, line 50 through column 7, line 12 in Miki et al for details.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miki et al in view of Higa et al(5,963,241). The patent to Miki et al teaches all that is claimed except for

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the use of a temperature sensor for sensing the temperature of the thermal head. Higa et al teach in a stencil printer the conventional use of a temperature sensor 25 for sensing the temperature of a thermal head 23 and output the information to the CPU of the printer so as to drive the thermal head at a proper power level. See column 3, lines 28-52 and column 5, lines 1-18 in Higa et al for example. In view of the teaching of Higa et al, it would have been obvious to those having ordinary skill in the art to provide the stencil printer of Miki et al with a temperature sensor for sensing the temperature of the thermal head during operation in order for the controller of the printer to drive the thermal head at a proper power level which would ensure that the effective heat emitting property of the thermal head is made uniform and a satisfactory perforation is carried out on the stencil at all times.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ren L Yan whose telephone number is 703-308-0978. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on 703-305-6619. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Ren L Yan
Primary Examiner
Art Unit 2854

Ren Yan